



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/684,312

10/10/2003

Donna Gail Schneider

DGS001

3321

73468

7590

10/27/2010

Frank McKiel, Jr.

1211 Whitehouse Dr.

Colorado Springs, CO 80904-1236

EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT

PAPER NUMBER

3743

MAIL DATE

DELIVERY MODE

10/27/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/684,312	Applicant(s) SCHNEIDER, DONNA GAIL	
	Examiner Stephen M. Gravini	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 17-24 rejected under 35 U.S.C. 102(e) as being anticipated by Willis (US 6,935,326). The claims are reasonably and broadly construed, in light of the accompanying specification, to be disclosed by Willis as comprising:

a collapsible frame **10** for suspending an item above a heat source, the frame comprising a plurality of vertical sides **22, 24, 26**, at least one of the vertical sides **24** being designated as a first side having user-selectable variable construction and the sides other than the designated first side collectively constituting the remainder of the frame;

wherein the first side having user-selectable variable construction is constructed of at least one panel selected by a user from among a plurality of panels available for constructing the first side by being removably attached and to the remainder of the frame (figure 1);

and wherein the remainder of the frame attaches to a user-selected combination of multiple ones of the available panels vertically stacked along the first side (figure 4). Willis also discloses the claimed at least one user-selectable in-use configuration wherein the first side having user-selectable variable construction is constructed with fewer than all of the available panels that are able to be used on a single side

Art Unit: 3743

concurrently and any unused panels from the plurality of available panels are entirely excluded from the construction of the first side having user-selectable variable construction (figure 1), where to the at least one panel selected by the user directly supports a transverse member for suspending an item above the heat source within the frame (figure 3), wherein the at least one panel selected by the user is attached to the remainder of the frame along at least two different edges of the panel when installed in the designated first side (figure 2), wherein the at least one panel selected by the user attaches to at least two different components of the remainder of the frame (figure 4), wherein a vertical position at which the at least one panel selected by the user is attached to the remainder of the frame is selectable by the user from among more than one possible such position of attachment (figure 1), wherein the position of attachment of the panel changes at least one of: a proportion of the first side that is substantially enclosed, which portion of the first side is substantially enclosed by the panel, or a height at which a transverse member, directly supported by at least one panel, is supported within the frame (figure 3), wherein the first side having user-selectable variable construction is constructed of a first quantity of panels to establish a first value of a variable attribute and alternatively constructed of a second quantity of panels to establish a second value of the variable attribute, the variable attribute being at least one of: a proportion of the first side that is substantially enclosed or a height at which a transverse member, supported by one of the panels, is supported within the frame (figure 1).

Claims 28-32 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Ebstein (US 3,337,983). The claims are reasonably and broadly construed, in light of the accompanying specification, to be disclosed by Ebstein as comprising:

at least one grill **20** for supporting an item to be heated; and

a collapsible frame (figure 1) for suspending the grill above a heat source, the frame having a plurality of vertical sides **30, 60, 40, 90**, at least one of the vertical sides **60** being designated as a first side having user-selectable variable construction and the sides other than the designated first side collectively constituting the remainder of the frame;

wherein the first side having user-selectable variable construction is constructed of at least one panel selected by a user from among a plurality of panels available for constructing the first side by being removably attached to the remainder of the frame (figure 1);

and wherein the at least one panel **30** or **40** directly supports the grill;

and wherein the remainder of the frame attaches to at least one combination of multiple ones of the available panels vertically stacked along the first side (figure 1).

Ebstein also discloses the claimed at least one user-selectable in-use configuration wherein the first side having user-selectable variable construction is constructed with fewer than all of the available panels that are able to be used on the first side concurrently and any unused panels from the plurality of available panels are entirely excluded from the construction of the first side having user-selectable variable

Art Unit: 3743

construction (figure 1), wherein a vertical position at which the at least one panel selected by the user is attached to the remainder of the frame is selectable by the user from among more than one possible such position of attachment (figure 2), wherein the position of attachment of the panel changes at least one of: a proportion of the first side that is substantially enclosed, which portion of the first side is substantially enclosed by the panel, or a height above the heat source at which the grill is supported by the frame (figure 3), wherein the first side having user-selectable variable construction is constructed of a first quantity of panels to establish a first value of a variable attribute and alternatively constructed of a second quantity of panels to establish a second value of the variable attribute, the variable attribute being at least one of: a proportion of the first side that is substantially enclosed or a height above the heat source at which the grill is supported by the frame (figure 4).

Claim Rejections - 35 USC § 103

Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wills in view of Sun (6,820,950). Wills discloses the claimed invention, except for the claimed different vertical heights and second panel. Sun discloses these features at column 2 line 45 through column 4 line 18 and shown in the figures. It would have been obvious to one skilled in the art to combine the teachings of Willis with the substantially enclosed first proportion or panel supported height transverse member or fist quantity of panels available for constructing a first value, along with a variable attribute of Sun for the purpose of providing a light, foldable food cooker that will move from an expanded position to a collapsed position which can be used as a barbeque, stove, oven and

Art Unit: 3743

smoker, and still fit into a confined area which can be very desirable. Other advantages include a folding center section assembly made up of side walls, back walls, front doors and support plates pivotally mounted to fold out quickly, with a cover on top, a firebox to provide both a spark and ashtray which is easily inserted in the expanded device, with food racks, water tray and fire box, it is further advantageous to have a device that can be assembled and disassembled in minutes.

Allowable Subject Matter

Claims 33-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Those claims are allowable over the prior art because the user selectable variable construction is defined in terms of differing height panels in combination with the independently claimed grill.

Response to Arguments

Applicant's arguments filed September 8, 2010 have been fully considered but they are moot based on the new grounds of rejection.

Conclusion

Other prior art references cited with this action can be used to reject the claims, but are not used in this action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth B. Rinehart can be reached on 571 272 4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3743

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. Gravini/
Primary Examiner, Art Unit 3743